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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/559,704	04/27/2000	Michael D. Zoeckler	7137	2557

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EXAMINER

HARMON, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 04/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/559,704

Applicant(s)

ZOECKLER, MICHAEL D.

Examiner

Christopher R Harmon

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-16 and 25-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-16 and 25-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-5, 7, 11-13, 16, 25, 29-32, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Campbell et al. (US 1,600,396).

Campbell et al. disclose a method for forming carton blanks comprising advancing a web of paperboard along a path; progressively applying, with an adhesive, at least one ribbon of reinforcing material 8 with a width less than the paperboard; the paperboard is then cut and scored (some score lines are adjacent to edge of ribbon 6) to form individual carton blanks for receiving articles (see figures 1, 3, and 4).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7, 11-16, 25-32, and 34 are rejected<sup>1</sup> under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (US 1,600,396) in view of Stone (US 5,551,938).

Campbell et al. disclose both reinforcing panel portions including edge portions along with multiple plies for reinforcing panels (see page 2, lines 1-8). However, the reinforcing panels with an added ply would not necessarily be with a ply less than the width of the paperboard blank. Stone teaches reinforcing selective paperboard carton panels with a reinforcing collar 38 less than the width of the web 42. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the teachings of Stone in the invention of Campbell et al. to reinforce selective panels.

Campbell et al. do not directly disclose using paperboard (trim or otherwise) for the reinforcing ribbons 8. However, Stone teaches manufacturing a paperboard carton with a reinforcing collar made of "either paperboard, thick paper...or flexible plastic." (column 4, lines 48-49). Therefore it would have been obvious to one of ordinary skill in the art to use a reinforcing ribbon of paperboard (trim, cull, etc.) as taught by Stone to supply additional support to the cartons of Campbell et al.

5. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (US 1,600,396) in view of Stone (US 5,551,938) as applied to claims 1-5, 7, 11-16, 25-32, and 34 above, and in further view of Decottignies et al. (US 5,097,651).

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<sup>1</sup> Claims 1, 3-5, 7, 11-13, 16, 25, 29-32, and 34 are alternatively rejected.

Campbell et al. do not directly disclose printing indicia on the ribbon, however Decottignies et al. teach printing indicia on at least one ribbon of reinforcing material 5 before adhering it to the web 4. It would have been obvious to one of ordinary skill in the art to print indicia as taught by Decottignies et al. in the modified invention to Campbell et al. as desired.

6. Claims 6 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (US 1,600,396).

Campbell et al. does not directly disclose adhering a second ribbon to the first ribbon. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to do so because Applicant has not disclosed that a second ribbon provides an advantage, is used for a particular purpose, or solves a stated problem other than reinforcing the paperboard. Varying the thickness of the reinforcing ribbon would be an obvious conclusion. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with one ribbon because the designer would make the thickness of the ribbon adequate for reinforcing the container.

- <sup>6</sup>  
7. Claims ~~3~~ and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (US 1,600,396) in view of Stone (US 5,551,938).

See above paragraphs 4-6.

***Response to Arguments***

8. Applicant's arguments filed 1/13/03 are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., reinforcing panels not panel edges) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, Campbell recognizes reinforcing the entire paperboard structure with multiple plies.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Campbell is concerned with reinforcing paperboard cartons (both edges and panels). Stone is also concerned with reinforcing portions of panels of paperboard containers.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does

not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### **Conclusion**

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Harmon whose telephone number is 703-308-8643. The examiner can normally be reached on Monday-Thursday from 8-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ch  
March 27, 2003



**EUGENE KIM  
PRIMARY EXAMINER**